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CHANCELLER
No. 990

In the Supreme Court of the United States

OCTOBER TERM, 1940

THE UNITED STATES, PETITIONER

v.
NUNNALLY INVESTMENT COMPANY

PETITION FOR REHEARING ON PETITION FOR A WRIT OF
CERTIORARI TO THE COURT OF CLAIMS

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Comes now the petitioner, United States of America, by the Solicitor General, and respectfully prays for a reconsideration by the Court of its order of May 26, 1941, denying certiorari herein.

This case raises the question whether a taxpayer who has already obtained a refund of income taxes in a United States District Court in a suit against the Collector of Internal Revenue may thereafter bring another suit in the Court of Claims to obtain an additional refund of income taxes for the same year.

⑥ The question presented is closely related to the issue in *United States v. Kales*, No. 35, 1941 Term,

(1)

certiorari granted, April 28, 1941. In the *Kales* case, the Government is contesting the right of the taxpayer to maintain a suit for refund of income taxes against the United States, where she had previously obtained a refund for the same year in a suit against the Collector. And in that case, the Government takes the position, *inter alia*, that the overpayment of income taxes for any one year constitutes a single cause of action which cannot be split and litigated piecemeal in various suits. If the Government should prevail upon that ground in the *Kales* case, a different result would be required in the present case. Since the two cases are closely related, they should be heard together.

It is therefore respectfully submitted that the order denying the petition for certiorari be vacated and that the petition be granted.

FRANCIS BIDDLE,
Solicitor General.

I certify that this petition is presented in good faith and not for delay.

FRANCIS BIDDLE,
Solicitor General.

JUNE 1941.

